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Washington and Lee Law Commencement

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Commencement
School of Law
Washington and Lee University
Lexington, Virginia
May 22, 1988
Lewis F. Powell, Jr.

WASHINGTON AND LEE COMMENCEMENT TALK

Fifty-seven years ago, in June 1931, like
you, I was here at W&L for my commencement speech.

I have no idea what was said or who gave the
speech. My primary concern was that it not be
long.

I therefore know that brevity will be
appreciated more than anything I say.

Of course, I also know the audience today
includes proud parents and friends. I do want to
say a word about your parents. Most of you were
fortunate to have parents or guardians who
appreciated the importance of education, including

the importance of graduate education - in your case law.

I also assume that for most of you your parents paid all or a part of the cost of your education. I know you would join me on this happy day in thanking parents and others who gave you the opportunity to attend this fine Law School.

It may interest you to compare your bright prospects with what confronted me in 1932 - 56 years ago. I was at W&L for six years, and then one year at Harvard for an LL.M. The depression - the worst in our history - had become acute. I did not know until later that my father borrowed money to pay my expenses and tuition. I had three degrees: a B.S., LL.B, and LL.M., but

the opportunities for young lawyers in 1932 were bleak.

John W. Davis, distinguished alumnus of this Law School, was on the Board of Trustees when I was a student. The year I was President of the Student Body, I had met Mr. Davis a couple of times. He had suggested that I see him before I commenced to practice law.

In those days, there was no recruiting at law schools by law firms. Rather, the students visited the law firms, hat in hand, hoping for employment.

Mr. Davis was the senior partner in the famous Davis, Polk firm in New York. He interviewed me in his office during my spring break at Harvard, and offered me a job at \$150 a

month. Despite his job offer, he advised me to return to Richmond, my home community.

I also interviewed in Washington, and the only offer I received was for \$100 a month from one firm.

In Richmond, the situation was even more discouraging. The largest firm there - indeed in Virginia - had only a dozen lawyers. It did not offer me a job. The firm that employed me in 1932 had three partners and three associates. My compensation was \$50 per month or \$600 per year.

Graduates of good law schools today are being offered \$60,000 or more per year in the great cities. This is 100 times my starting rate in Richmond in 1932.

But more important than money, I had the good fortune to work with the senior partner, a superb lawyer, who gave me major responsibilities in litigation quite early.

I recite these facts not because they are substantively important. Conditions have changed drastically since the 1930s, the law is vastly more complicated, and the demand for quality legal services today is incomparably greater. So are the financial rewards.

But despite my meager early earnings, I learned a great deal in those years. Of greatest importance, I learned that a lawyer must do each task to the best of one's ability. However unimportant the assignment, or the duty may seem to be, always give it your best effort.

I moved to the larger firm after two and a half years. By 1936, I was being paid \$300 per month, and still had no clients of my own.

Nevertheless, my wife - a Sweet Briar graduate - and I were married. To supplement my income, I taught a class in economics at the University of Richmond.

So much for conditions that faced young lawyers in the 1930s. Now, I know you expect me, as commencement speakers seem compelled to do, to give you some advice pertinent to the 1980s.

It is, of course, important for a lawyer to become known. But apart from attracting clients, a lawyer with an identity can better serve the community in which he practices. Lawyers have a duty - a public as well as a

professional responsibility - to do a great deal more than make money.

I am sure you have been taught here that you have a responsibility to represent indigents. This includes the kind of pro bono services rendered by legal aid societies, as well as accepting appointment to defend indigent persons accused of crime.

In 1986 the American Bar Association created a "Commission on Professionalism". Its report includes some 27 recommendations to improve the level of "professionalism" among lawyers. One of its recommendations was to "increase the participation of lawyers in pro bono activities".

This was addressed not only to younger lawyers. The report noted that "far too few partners engage in any form of pro bono activity".

Also, I strongly recommend participation in the activities of the organized bar at local, state and national levels.

I suggest that you look at the annual directory of the ABA. You will find substantive Sections on every subject from municipal bonds to international law. Select one or more Sections in which you are interested, and in due time take an active part.

The major Sections have quality publications and seminars. There is no better way to improve and maintain professional competency.

The ABA also has a number of sections and committees that essentially serve the public interest. These I commend. Participation in the ABA also will broaden your acquaintance with lawyers all over the United States.

As for activities not directly related to our profession, you will find boards and agencies in every community that combine both duties and opportunities for lawyers. Some, like a school board (on which I served) are public.

Many are private. I have in mind the cultural and educational boards, and the agencies that are funded in large part by United Fund drives every year. Of course, lawyers also seek and hold public office, elected or appointed.

Legal training is beneficial in most of these, not only in terms of knowledge of the law but because of the way lawyers are taught to think, to reason, and to lead.

Whitney North Seymour, Sr., a famous lawyer who argued a number of cases before the Supreme Court, in his 1968 Benjamin N. Cardozo Lecture, spoke of the duty of lawyers. He said:

" . . . the lawyer is not just a journeyman devoted to his own [financial] interests . . . He has a duty to his profession which includes . . . a duty to contribute at least some of his talents to the public good. This can be done through the organized bar, and in other ways. . . ."

At this point, those of you who are still awake will wonder when a lawyer finds time actually to practice law and earn a living.

Of course, your first duty is to maintain a high degree of professional competence, to be diligent in discharging every responsibility

to the courts, to clients, and - if you are in a firm - to its partners and associates.

I do note a trend in our profession that I regret: the emphasis on recording billable hours - often without regard to the results achieved for the client. I understand, of course, that with the heavy expense of overhead today, lawyers must be adequately compensated for honest and conscientious services.

The Supreme Court, in opinions that I wrote, approved the use of billable hours at reasonable rates in civil rights cases. The important point is fairness. This means a duty not to charge unreasonable rates, or charge clients for hours that were unnecessary or unreasonably recorded.

* * *

Before concluding, I list a few specific suggestions for those of you who have not yet made commitments.

I suggest first that you weigh carefully the possible advantages of practice in smaller communities, rather than in one of the great

cities. I personally would not like the life in a large metropolitan center as well as I did in my home community and state.

The opportunity for the type of community participation I have mentioned, usually is greater in the smaller community.

The larger cities do have advantages. The great firms have more national corporations as clients, and they admit to partnership lawyers of the highest quality.

When making the choice of a firm, ask about its policy of pro bono service. Also inquire whether you may move from one specialization to another, after a fair trial. For example, if you start in litigation, as I would suggest, after a few years you may prefer corporate or some other specialty.

Many of you may be thinking of starting in government. If you make this initial choice - for example, the Justice Department or a State Attorney General's office - I suggest you limit the time of this service if you intend to practice

law privately. Most law firms prefer to hire associates directly from law schools.

My final word: I always have been proud to be a lawyer. Each of you also should be proud. We are privileged in this country to have independent courts, state and federal.

Jointly with these courts, lawyers share the privilege and the responsibility of preserving the liberties, and the rights, guaranteed by our Constitution. I know of no other calling with a greater opportunity to serve the public good.

I congratulate each of you on graduating from a nationally known law school of high quality. I also congratulate your families. You have my best wishes.

L.F.P., Jr.